

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

SHELDON G. ADELSON,

Plaintiff,

v.

MOSHE HANANEL,

Defendant.

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Civil Action No.

04-cv-10357-RCL

MOTION OF HANANEL TO DISMISS FIRST AMENDED COMPLAINT

Defendant Moshe Hananel (“Hananel”) moves to dismiss Plaintiff Sheldon G. Adelson’s (“Adelson”) First Amended Complaint filed on April 28, 2006 pursuant to Fed. R. Civ. P. 12(b)(2) for lack of personal jurisdiction and pursuant to the federal doctrine of forum non conveniens. These grounds for dismissal have been argued to this Court with respect to Adelson’s original Complaint, this Court has previously ordered dismissal of Adelson’s original Counts II, III, and IV for lack of personal jurisdiction,¹ and Magistrate Judge Sorokin has recommended dismissal of Count I for forum non conveniens in favor of a prior pending action in Israel between the same parties concerning the same issues.²

As set forth in Hananel’s Memorandum in Support filed herewith, Adelson’s proposed Count II is entirely subsumed in his Count I, as well as in the prior pending litigation between them in Israel, and should be dismissed pursuant to, and for the reasons set forth in, Hananel’s previous motion papers and in accordance with the Report and Recommendation of Magistrate

¹ Report and Recommendation on Defendant’s Renewed Motion to Dismiss For Lack Of Personal Jurisdiction (Magistrate Judge Sorokin), Oct. 31, 2005, Dkt # 78. Adelson did not object to the recommendation of dismissal of these counts. This Court adopted Judge Sorokin’s recommendation granting dismissal of three of the four counts in the Complaint but finding jurisdiction over Hananel for Count I. Electronic Order November 29, 2005.

² Report and Recommendation on Defendant’s Renewed Motion to Dismiss For Forum Non Conveniens (Magistrate Judge Sorokin), March 28, 2006, Dkt # 135.

Judge Sorokin dated March 28, 2006 (Dkt # 135) presently awaiting consideration for approval and adoption by the Court. Hananel also requests dismissal for lack of personal jurisdiction, on the grounds set forth in his previous motion papers, which are incorporated by reference, to preserve his rights under Fed. R. Civ. P. 12(h), although he recognizes that the Court has previously ruled that it has personal jurisdiction over Hananel concerning Adelson's Count I. *See n. 1, supra.*

WHEREFORE, the Court should dismiss the First Amended Complaint on the grounds of forum non conveniens.

Dated: May 11, 2005

MOSHE HANANEL
By His Attorneys,

/s/ James A. G. Hamilton
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MotDsmsAmCplt-31216-1

Certificate of Service

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on May 11, 2006.

/s/ James A.G. Hamilton